



PLANNING COMMISSION

AGENDA REPORT

MEETING DATE: APRIL 27, 2009

VII.4

ITEM NUMBER:

SUBJECT: ZONING CODE AMENDMENT CO-09-04
PROHIBITING "COMMERCIAL MASCOTS"

DATE: APRIL 16, 2009

FOR FURTHER INFORMATION CONTACT: WILLA BOUWENS-KILLEEN, AICP
PRINCIPAL PLANNER
714.754.5153

PROJECT DESCRIPTION

The Planning Division has initiated a change to the City's Sign Code which would prohibit any type of "commercial mascots", including sign spinners.

RECOMMENDATION

Recommend to City Council that the draft ordinance amending the Sign Code be given first reading.


WILLA BOUWENS-KILLEEN, AICP
Principal Planner


KIMBERLY BRANDT, AICP
Asst. Development Services Director

BACKGROUND

Concern has been expressed in the past with “Sign Spinners” (people standing on the public sidewalk, twirling signs, advertising commercial businesses) and the resultant visual and safety impacts. To date, staff has not regulated these signs, based on past City Attorney’s advice that we could not enforce any limitation or prohibition because they were located on public sidewalks and any regulation would constitute a violation of First Amendment rights. However, several cities (Lake Forest, Huntington Beach, Fountain Valley, Tustin, and Irvine) have more recently adopted ordinances prohibiting or limiting this type of signage, with Huntington Beach reaffirming the prohibition in February of this year.

ANALYSIS

Sign spinners have increased in the last several years, especially with the recent economic downturn. Planning staff has been concerned with this type of advertising because it usually occurs on a public sidewalk, where it may obstruct pedestrian movement and affect traffic safety. Furthermore, it can be looked at as increasing visual clutter in conflict with the City’s Sign Code which looks to “regulate the placement of signs in the city in such a way as to balance the identification and communication needs of businesses with traffic safety and the needs of the citizens for a pleasant, uncluttered environment”.

Based on ordinances passed by other cities, staff proposes prohibiting “commercial mascots” which includes people who hold signs and spin or twirl them. The Sign Code would be modified to include a definition of “commercial mascots” as:

“A person or animal costumed or decorated to function as a commercial advertising device. Includes sign twirlers, sign clowns, and persons or animals holding or supporting signs.”

To completely ban “commercial mascots”, staff proposes including them on the prohibited sign list contained in Costa Mesa Municipal Code Section 13-112.

It is staff’s opinion such a ban would be consistent with the intent of the Sign Code, by reducing visual clutter and promoting traffic safety, while also keeping sidewalks clear for pedestrians. Furthermore, prohibiting “commercial mascots” is consistent with General Plan Goal CD-13 which seeks to “Ensure that signs contribute positively to Costa Mesa’s image”; Goal CD-6 which calls for “creative and well-designed signs, which establish a distinctive image for the City”; as well as Goal CD-1 which looks to a strengthened City image “as experienced from sidewalks and roadways.” Although staff is sympathetic for the need of some business owners to have greater advertising available to them, we feel the prohibition is needed to balance the need for advertising in addition to that permitted by Code (including banners) with the attractiveness of the City.

Concern has been expressed as to the impact this prohibition could have on businesses affected by the current road construction on Newport Boulevard between 17th and 19th Streets. Assuming City Council gives second reading to this ordinance in early June, it would become effective in early July; the City's Transportation Services Division anticipates that the Newport Boulevard construction should be complete by early summer.

If Planning Commission does not wish to completely prohibit "commercial mascots", there is the option to limit the location of "commercial mascots" similar to the City of Tustin's regulations. Tustin permits "commercial mascots" on private property and in public parkway areas and sidewalks, subject to the following provisions:

- (a) They are prohibited within 200 feet of any street intersection;
- (b) The signs are limited to a maximum of three square feet in size;
- (c) They may not block the visibility of any traffic control device or traffic signal for motorists;
- (d) When on public sidewalks, they must yield to passage of pedestrians; and
- (e) The signs may not be spun, twirled, swung, or gyrated.

LEGAL REVIEW

Staff has reviewed the proposed ordinance change with the City Attorney's office, who has found the proposed changes acceptable and supportable.

ALTERNATIVES

The Planning Commission can either recommend approval, denial, or modification of the proposed amendment to City Council. City Council would take Commission's recommendation into consideration as a part of their review process.

ENVIRONMENTAL DETERMINATION

The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15061 (b) (3) (general rule) of the CEQA Guidelines.

CONCLUSION

A recommendation to City Council to amend the Code as proposed by Planning staff would initiate a means to decrease visual clutter, promote traffic safety, and decrease potential obstructions for pedestrian traffic, consistent with the intent of both the City's General Plan and Sign Code.

Attachments: 1. Draft Ordinance
 2. Photographs
 3. Current Costa Mesa Sign Code regulations
 4. Other Cities' ordinances

cc: Deputy City Manager - Dev. Svs.
 Senior Deputy City Attorney
 City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

File: 042709CO0904	Date: 041609	Time 11:00 a.m.
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ATTACHMENT 1

ORDINANCE NO. 09-

AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA ADOPTING ZONING CODE AMENDMENT CO-09-04, AMENDING TITLE 13 OF THE COSTA MESA MUNICIPAL CODE REGARDING COMMERCIAL MASCOTS.

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, the City of Costa Mesa, pursuant to its police power, has the authority to take appropriate action to address concerns regarding traffic safety and aesthetics, as they relate to signs. Metromedia Inc. v. City of San Diego, 453 U.S. 490 (1981); and

WHEREAS, the City Council of the City of Costa Mesa recognizes that signs constitute speech protected by the First Amendment of the United States Constitution and by Article 1, Section 2, of the Constitution of the State of California and that its regulation of signs must be consistent with these protections; and

WHEREAS, the City Council finds that commercial mascots, as defined in this ordinance, are intended to, and do, distract drivers and therefore constitute a traffic hazard; and

WHEREAS, commercial mascots may create distractions for motorists on the City's streets and arterials as well as impede pedestrian movement on the City's sidewalks.

WHEREAS, the City's General Plan goals call for "creative and well-designed signs, which establish a distinctive image for the City" and a strengthened City image "as experienced from sidewalks and roadways"; and

WHEREAS, the City Council further finds that permitting commercial mascots in the public right-of-way or on private property is inconsistent with the City's General Plan goals; and

WHEREAS, adoption of the proposed amendment will reduce clutter that distracts from the visual environment of Costa Mesa's vehicular and pedestrian corridors and will allow for a pleasant, uncluttered visual environment on both private and public property, consistent with the intent of the City's Sign Code.

THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Title 13 of the Costa Mesa Municipal Code is hereby amended as follows:

- a. Amend Chapter VIII, Section 13-111, Definitions, by adding the following definition:

"Commercial mascot. A person or animal costumed or decorated to function as a commercial advertising device. Includes sign twirlers, sign clowns, and person or animals holding or supporting signs."

- b. Amend Chapter VIII, Section 13-112 "Prohibited signs" as follows:

"(k) Signs on public property; and

(l) Electronic changeable copy signs, except theater marquees and time/temperature signs; and

(m) All signs held, posted or attended by commercial mascots as defined in 13-111 are prohibited on private property in all zones and on all public property."

SECTION 2: ENVIRONMENTAL DETERMINATION. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15061 (b) (3) (general rule) of the CEQA Guidelines, in that the City Council hereby finds that it can be seen with certainty that there is no possibility that the passage of this ordinance amending the zoning code will have a significant

effect on the environment.

SECTION 3: INCONSISTENCIES. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

SECTION 4: SEVERABILITY. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

SECTION 5: PUBLICATION. This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

PASSED AND ADOPTED this _____ day of _____ 2009.

ATTEST:

City Clerk of the City of Costa Mesa

Mayor of the City of Costa Mesa

APPROVED AS TO FORM:

City Attorney

STATE OF CALIFORNIA))ss
COUNTY OF ORANGE)

I, JULIE FOLCIK, Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above foregoing Ordinance No. 09-___ as introduced and considered section by section at a regular meeting of said City Council held on the ___ day of ___, 2009, and thereafter passed and adopted as a whole at the regular meeting of said City Council held on the ___ day of ___, 2009, by the following roll call vote:

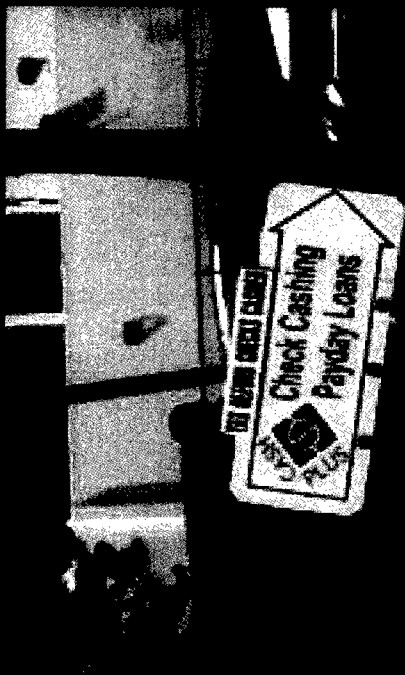
AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2009.

City Clerk
City Council of the City of Costa Mesa



West 19th
Street



Harbor Boulevard



East 17th Street



Harbor and Adams



Newport Boulevard

Adobe Grill

57.00
TUESDAY



57.00
TUESDAY

a light standard within the public right-of-way.

Street. A public or private alley, street or highway improved to allow vehicular access.

Temporary window sign. A non-illuminated sign placed on or behind a window for a period of time not in excess of 60 days for the purpose of advertising special sales, prices, products or services, including paper or cardboard signs, or signs painted directly onto the surface of a window.

➔ **Sec. 13-112. PROHIBITED SIGNS**

The following types of signs are prohibited in all zones:

- (a) Signs which incorporate any flashing, moving, or intermittent lighting;
- (b) Signs which by color, wording, design, location, or illumination resemble, obstruct, or conflict with any traffic-control device or with safe and efficient flow of traffic;
- (c) Signs that create a safety hazard by obstructing the clear view of or passage of pedestrian and vehicular traffic;
- (d) Banners, flags, and pennants except as authorized in Table 13-115;
- (e) Street banners in the public right-of-way, except as authorized by Section 13-118;
- (f) Signs projecting into or located in the public right-of-way, except governmental signs or other types of signs as authorized by Sections 13-123.5 and 127 or Chapter II of Title 19;
- (g) Inflatable signs (and balloons) larger than 24 inches in any dimension;
- (h) Portable signs, except as authorized by Section 13-123.5 and Table 13-115;
- (i) Mechanical movement;
- (j) Signs which project above a parapet or the highest point of the roof;
- (k) Signs on public property; and
- (l) Electronic changeable copy signs, except theater marquees and time/temperature signs.

21.24.070 Prohibited signs.

The following signs are inconsistent with the purposes and standards of the chapter and are, therefore, prohibited in all zoning districts:

- (1) Abandoned and/or dilapidated signs and sign structures;
- (2) Aerial signs or aerial devices;
- (3) Animated, moving, flashing, blinking, reflecting, revolving or other similar signs, except time/temperature devices, barber poles not associated with a licensed barber, and signs or decorations commemorating a national, state or local holiday;
- (4) Banners, bunting, flags, streamers and pennants, except as specifically allowed by this chapter;
- (5) Bench signs, except at approved bus passenger loading areas;
- (6) Billboards;
- (7) Changeable copy signs, except for places of worship and theaters or as required by state law;
- (8) Electronic reader board signs, except time/temperature devices;
- (9) Fence signs;
- (10) Inflated signs, balloons and figures (balloons and blimps);
- (11) Mobile signs;
- (12) Neon signs not specifically allowed by the provisions of this chapter;
- (13) Off-site advertising signs not specifically allowed by the provisions of this chapter, including billboards and outdoor advertising;
- (14) Painted signs on fences, walls, roofs, storage bins or cargo containers;
- (15) Paper, cloth or similar material signs on the exterior of a building, except those signs located inside a building as part of a window sign that meets all other provisions of this chapter;
- (16) Portable signs, including A-frame signs and signs carried/supported by human beings for the identification of commercial and/or industrial uses;
- (17) Pole-mounted signs;
- (18) Projecting signs;
- (19) Roof signs;
- (20) Signs on umbrellas and similar portable devices;
- (21) Signs erected in a manner that a portion of its surface or supports will interfere in any way with the free use of a fire escape, exit or standpipe or obstruct a required ventilator, door, stairway or window above the first story;
- (22) Signs not in compliance with the provisions of this chapter;
- (23) Signs emitting audible sounds, odors or visible matter;
- (24) Signs that conflict with or imitate traffic control devices due to color, wording, design, location or illumination, or that interfere with the safe and efficient flow of vehicular and/or pedestrian traffic.

- L. Pennants corresponding to a City sponsored event or theme. The pennants shall be on light standards located on private property, a maximum of 30 square feet per pennant, with a minimum eight (8) foot clearance from the ground. Written text shall be restricted to the name and dates of the event. Pennants shall be removed within five (5) working days upon the completion of the event. (3360-12/97)
- M. Political campaign signs which do not pose a traffic or safety hazard, are not erected more than 75 days prior to or remain more than 15 days after an election, and have been granted permission of the property owner for display. Political signs shall be prohibited in street medians and dividers. (3334-6/97, 3360-12/97)
- N. Promotional Activity Signs for Vehicle Sales Dealerships provided they comply with the provisions set forth in Section 233.18 G. (3360-12/97)
- O. Public transit seating signs and public information, directional, and warning signs erected by a public agency. (3334-6/97)
- P. Real estate signs provided they comply with the provisions set forth in Section 233.06 F. (3360-12/97)
- Q. Signs manufactured as a standard, integral part of a mass-produced product accessory to a commercial or public or semi-public use, including telephone booths, vending machines, automated teller machines, and gasoline pumps. (3334-6/97)
- R. Signs within a building not visible from a public street and window signs not exceeding 20 percent of the visible area of a window (50% during December). No window sign shall be displayed above the second story. (3334-6/97, 3360-12/97)
- S. Signs required by the Americans with Disabilities Act (ADA). (3360-12/97)
- T. Street address numerals. (3334-6/97)
- U. No-trespassing signs posted a minimum of 100 feet apart. (3334-6/97)

233.10 Prohibited Signs

- A. Canvas signs, banners, pennants, streamers, balloons or other temporary signs except as provided in Sections 233.08 (Exempt Signs), 233.16 (Subdivision Directional Signs) or 233.18 (Promotional Activity Signs). (3334-6/97, 3360-12/97)
- B. Mobile, A-frame, and portable signs and those of a similar nature which are not permanently attached to the ground or building except as provided in Sections 233.18 or 233.20. (3334-6/97)
- C. Roof signs. (3334-6/97)
- D. Signs which resemble any official marker erected by the city, state, or any governmental agency, or which, by reason of position, shape, color or illumination would conflict with the proper functioning of any traffic sign or signal or would be a hazard to vehicular or pedestrian traffic. (3334-6/97)
- E. Signs which produce odor, sound, smoke, fire or other such emissions. (3334-6/97)

- F. Flashing, moving, pulsating, or intermittently lighted signs, mechanical movement signs, including searchlights, except electronic readerboards and public service signs such as those for time and temperature. (3334-6/97)
- G. Animals or human beings, live or simulated, utilized as signs. (3334-6/97)
- H. Projecting signs, except canopy or awning signs and under-canopy signs, subject to subsections 233.06(A) and 233.06(E). (3334-6/97, 3360-12/97)
- I. Signs which constitute a nuisance or hazard due to their intensity of light. (3334-6/97)
- J. Signs visible from and within 100 feet of an R district which are illuminated between the hours of 10:00 PM and 7:00 AM unless they identify an establishment open for business during those hours. (3360-12/97)
- K. Off-premises signs, including billboards or advertising structures installed for the purpose of advertising a project, subject or business unrelated to the premises upon which the sign is located, except subdivision directional signs and multiple user electronic readerboards. (3334-6/97)
- L. Abandoned signs and signs which no longer identify a bona fide business conducted on the premises. Such signs shall be removed by the property owner within 60 days of the business' closing date. The sign panel may be turned over (blank side out) if the sign complies with code. (3334-6/97, 3360-12/97)
- M. Signs on any public property, including signs affixed to utility poles, or projecting onto the public right-of-way, except political signs and those required by law. This section shall not prohibit the placement of advertising panels on public service items including, but not limited to, trash receptacles, bicycle racks, bus benches, transit shelters, and telephone booths, within public rights-of-way or in publicly-operated beaches or parks provided such items are placed in accord with an agreement granted by the City Council. (3334-6/97, 3360-12/97)
- N. Vehicle signs, signs affixed to automobiles, trucks, trailers or other vehicles on public or private property for the basic purpose of advertising, identifying or providing direction to a use or activity not related to the lawful use of the vehicle for delivering merchandise or rendering service. Any such vehicle signs which have as their primary purpose to serve as a non-moving or moving display are prohibited. (3334-6/97)

233.12 Electronic Readerboards


Electronic readerboards may be permitted subject to the review by the Design Review Board, and approval of a conditional use permit by the Zoning Administrator. (3334-6/97, 3360-12/97, 3711-06/05)


- A. Required Findings: Prior to approving a conditional use permit to allow an electronic readerboard sign, the Zoning Administrator shall make the following findings: (3334-6/97, 3711-06/05)
 - 1. The proposed electronic readerboard sign conforms with the standards and criteria as set forth in this chapter; (3334-6/97)
 - 2. The proposed electronic readerboard sign is compatible with other signs on the site and in the vicinity; (3334-6/97)

Council/Agency Meeting Held: _____	City Clerk's Signature _____
Deferred/Continued to: _____	
<input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	Department ID Number: PL 09-02
Council Meeting Date: 2/2/2009	

CITY OF HUNTINGTON BEACH REQUEST FOR CITY COUNCIL ACTION

SUBMITTED TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

SUBMITTED BY: FRED WILSON, CITY ADMINISTRATOR 

PREPARED BY: SCOTT HESS, DIRECTOR OF PLANNING 

SUBJECT: **APPROVE ZONING TEXT AMENDMENT NO. 08-003 (AMENDING HBZSO CHAPTER 233 SIGNS)**

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

Statement of Issue:

Transmitted for your consideration is Zoning Text Amendment No. 08-003 to amend Huntington Beach Zoning and Subdivision Ordinance Chapter 233 Signs in compliance with recent court decisions. The adoption of this zoning text amendment will bring Section 233.08 Exempt Signs into conformance with recent court rulings, provide further clarification regarding sign type and permitted location of temporary signs, create consistency throughout Chapter 233 Signs with the General Plan, and allow for an increase in the size of menu boards. The Planning Commission is recommending approval of Zoning Text Amendment No. 08-003 (**Recommended Action – A**) with added provisions to reduce the display of Political Signs from 75 days to 60 days prior to an election, require Design Review Board approval for Readerboard Signs –Multiple Users, and allow for Human Signs. Staff also recommends approval (**Recommendation Action– B**) but disagrees with two of the three changes recommended by the Planning Commission.

Funding Source: Not Applicable

ORDINANCE No. 3825
- OR -

ORDINANCE No. 3826

REQUEST FOR ACTION

MEETING DATE: 2/2/2009

DEPARTMENT ID NUMBER: PL 09-02

Recommended Action:

A. PLANNING COMMISSION RECOMMENDATION:

Motion to:

"Approve Zoning Text Amendment No. 08-003 with findings for approval (ATTACHMENT NO. 1)" and adopt Ordinance No. 3825, an ordinance amending Chapter 233 Signs of the Huntington Beach Zoning and Subdivision Ordinance Relating to Signs (ATTACHMENT NO. 2)."

Planning Commission Action on December 9, 2008:

THE MOTION MADE BY SPEAKER, SECONDED BY SHIER-BURNETT, TO APPROVE ZONING TEXT AMENDMENT NO. 08-003, WITH MODIFICATIONS AND FINDINGS CARRIED BY THE FOLLOWING VOTE:

AYES: SHIER-BURNETT, SPEAKER, LIVENGOD, FARLEY, SHAW
NOES: NONE
ABSENT: NONE
ABSTAIN: SCANDURA

MOTION PASSED

B. STAFF RECOMMENDATION:

Motion to:

"Approve Zoning Text Amendment No. 08-003 with findings for approval (ATTACHMENT NO. 1)" and adopt Ordinance No. 3826, an ordinance amending Chapter 233 Signs of the Huntington Beach Zoning and Subdivision Ordinance Relating to Signs (ATTACHMENT NO. 5)."

Alternative Action(s):

The City Council may make the following alternative motion(s):

1. "Deny Zoning Text Amendment No. 08-003 with Findings for Denial."
2. "Continue Zoning Text Amendment No. 08-003 and direct staff accordingly."

REQUEST FOR ACTION

MEETING DATE: 2/2/2009

DEPARTMENT ID NUMBER: PL 09-02

Analysis:

A. PROJECT PROPOSAL:

Applicant: City of Huntington Beach, 2000 Main Street, Huntington Beach, CA 92648

Location: Citywide

Zoning Text Amendment No. 08-003 represents a request to amend Chapter 233 Signs of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) pursuant to direction from the City Council. The sign code amendment is intended to:

- Create consistency throughout Chapter 233 Signs by revising various sections of the code for consistency with the General Plan
- Revise content-based sign regulations to be content-neutral
- Provide further clarification regarding sign type and permitted location of temporary signs
- Increase the allowable square footage of menu boards to be responsive to the needs of the business community

The City Attorney's Office prepared this amendment as a result of recent court decisions indicating that specific exemptions for political, real estate, and car dealership signs are content-based and therefore unconstitutional. Pursuant to a court ruling, the City is required to change its sign ordinance.

B. PLANNING COMMISSION MEETING AND RECOMMENDATION:

A study session was held with the Planning Commission on October 14, 2008 to review and comment on the proposed ordinance amendment. At the study session, the Planning Commission requested that staff conduct a survey of cities to review the criteria imposed on political signs.

The Planning Commission public hearing was held on December 9, 2008. There were no public comments. Staff presented the results of the political signs survey within that staff report (Page 4 of Attachment No. 4). Upon discussion, the Planning Commission recommended the following additional amendments:

- Reduce the allowable display period for political signs from 75 days to 60 days prior to an election
- Require Design Review Board approval for readerboard signs for multiple users
- Permit the use of humans for advertising (Human Signs)

REQUEST FOR ACTION

MEETING DATE: 2/2/2009

DEPARTMENT ID NUMBER: PL 09-02

C. STAFF ANALYSIS AND RECOMMENDATION:

The proposed amendment primarily affects temporary and promotional activity signs such as those used by the real estate and construction industries, as well as political signs, and signs that do not normally require a building permit. The recommended changes clarify that these signs shall not be restricted by content, and consolidate the regulations for temporary signs within the ordinance for ease of use. Language has also been added clarifying the proper location for temporary signs. No changes to size standards are required or proposed. The amendment, including the existing sign code regulations, are preventative measures intended to restrict placement and location of signs that could potentially cause a traffic safety hazard while improving the aesthetics for signs citywide.

In addition, staff is recommending the clean-up of certain sections of the code for clarification and consistency. Section 233.06 Permitted Signs is also proposed to be amended to increase the allowable square footage permitted for menu boards from 10 square feet to 32 square feet in an effort to address the needs of the business community. Larger menu boards are directly related to the merging of fast-food restaurants and increased menu selections. Sign Code Exception applications processed over the last ten years reveal increases from 10 to 30 square feet above the 10 square feet permitted by code. Additionally, increasing the allowable square footage for menu boards will reduce processing time for new and existing businesses and accommodate the visual need of the consumers.

Planning Commission Recommended Changes

The Planning Commission is recommending that the length of time for the display of political signs be reduced from 75 to 60 days prior to an election. In March of 2005, the City Attorney's Office issued an opinion recommending against reducing the number of days from 75 because such an action could invite litigation. The City Attorney's Office opinion remains the same. As a consequence, the ordinance representing the Planning Commission's recommendation, Attachment No. 2, does not include a reduction in days for display of Political Signs.

The Planning Commission is also recommending that the Design Review Board review Section 233.14 Readerboard Signs – Multiple-Users. Currently, only Section 233.12 Electronic Readerboards must be reviewed by the Design Review Board (and then receive approval by the Zoning Administrator). The Planning Commission believes that all readerboard signs, single and multiple users, should be reviewed by the Design Review Board. Staff agrees with this recommendation because the change will create further consistency between Sections 233.12 Electronic Readerboards and 233.14 Readerboards Signs – Multiple Users.

Finally, the Planning Commission recommends that the current prohibition of Human Signs be revised so they are permitted. This was in response to the current economic situation in order to assist business owners to generate more sales. However, the Planning Commission

REQUEST FOR ACTION

MEETING DATE: 2/2/2009

DEPARTMENT ID NUMBER: PL 09-02

did not suggest any criteria for Human Signs. Such signs include human directionals, humans holding and waving signs, sign twirlers or spinners, and costumed individuals in bright colors dancing. They may be advertising businesses and products on-site, nearby, two miles away, or in another city.

Staff researched standards for Human Signs in the cities of Lake Forest, Tustin, Irvine and Fountain Valley. With the exception of Tustin, which has adopted criteria, Human Signs are prohibited in these jurisdictions.

Staff does not support changing the code to permit Human Signs, with or without criteria, because when located within the public right-of-way they can be a potential traffic hazard for pedestrians and motorists, impact pedestrians on sidewalks, present a liability issue for the City, are difficult to regulate even with adopted criteria, and are considered an off-site sign. Section 233.10 Prohibited Signs (K) prohibits Off-Site signs with the exception of Subdivisions and Readerboard Signs.

Should the City Council choose to consider allowing Human Signs, staff recommends one of the following options:

- Option 1: Approve Zoning Text Amendment No. 08-003 as recommended by staff and return back to Planning Commission to develop criteria for Off-Site Human Signs
- Option 2: Continue Zoning Text Amendment No. 08-003 and return to City Council with Human Sign criteria

Attachment No. 7 provides the Human Signs regulations currently used by the City of Tustin for Council's information.

D. SUMMARY

Zoning Text Amendment No. 08-003 amends Chapter 233 Signs of the Huntington Beach Zoning and Subdivision Ordinance. Staff recommends that Zoning Text Amendment No. 08-003 amending Chapter 233 Signs be approved for the following reasons:

- Updates Section 233.08 based on recent court decisions.
- Provides further clarification regarding types of signs and permitted placement of temporary signs.
- Creates Consistency throughout Chapter 233 Signs by revising various sections of the code for consistency with the General Plan.
- Increases the allowable square footage of menu boards in response to the needs of commercial drive-thru businesses.
- Continues to reduce visual clutter caused by the proliferation of on-site and off-site signs.

2. *Signs constituting a traffic hazard.* No person shall install or maintain or cause to be installed or maintained any sign which will cause a roadway safety distraction such as glare from internal or external illumination. No sign shall simulate or imitate in size, color, lettering or design any traffic sign or signal. No sign shall use the words "stop," "look," "danger" or any other words, phrases, symbols or characters that may have the effect of interfering with, misleading, confusing or controlling the direction of traffic. No sign shall hide from view any official traffic control device.

3. *Signs within any public right-of-way or attached to any public property.* Signs are prohibited in any public right-of-way, or on any utility pole, tree, traffic sign post, traffic signal, or any other official traffic control device in accordance with Vehicle Code § 21464, and within or on any public structure, building or facility, whether City Hall, park, library, fire or police station or otherwise, except for any City-owned sign or as otherwise provided in this division. Signs shall not project over or into a right-of-way, shall not be placed in street medians/islands, nor shall obstruct sight lines at intersections. Temporary signs such as a temporary banner for a nonprofit organization, open house directional, village directional, model home directional, and election signs may be placed in the public right-of-way. (section 7-3-1, 7-3-2, and 7-3-3, for specific regulations.) The City Council may by resolution make areas within or on any public structure, building or facility available to the public for the placing of temporary signs and prescribe regulations therefor.

4. *Obscene or unlawful advertising.* It shall be unlawful for any person to exhibit, post or display or cause to be exhibited, posted or displayed, upon any sign, anything of an obscene or unlawful nature.

5. *Signs on doors, windows or fire escapes.*

a. No sign shall be installed, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign of any kind shall be attached to a standpipe or fire escape, except those signs as required by other codes or ordinances.

b. No sign located on the exterior or interior of any window or storefront glass shall be permitted unless allowed by other sections of this division, or approved as part of a sign program.

6. *Animated or moving signs.* Signs consisting of any moving, swinging, rotating, flashing, blinking, scintillating, fluctuating or animated light, including temporary lighting, such as, but not limited to, search, flood fluorescent gel or laser lights, are prohibited, except as permitted by chapter 7-3.

7. *Off-premises commercial signs.* Any commercial sign, installed for the purpose of advertising a project, event, person or subject not related to the premises upon which said sign is located, is prohibited. An exception may be granted for the following:

a. Temporary banners for non-profit uses.

b. Properties located adjacent to a utility right-of-way that preclude placement of a business or project identification ground sign along an arterial roadway. Such signs shall meet all criteria described in Sections 7-2-3.A.10, 7-3-1, 7-3-2, 7-3-3, and 2-31.



8. *Advertising devices.* Signs defined as advertising devices are prohibited (section 1-2-1 (General definitions)).

9. *Vehicle signs.* Signs on or affixed to trucks, automobiles, trailers or other vehicles, which advertise, identify or provide direction to a use or activity not related to its lawful making of deliveries or sales of merchandise or rendering of services from such vehicles, are prohibited. Parking of legitimate delivery, sales or service vehicles in an off-

relating to specified sexual activities or specified anatomical parts.

Adult hotel/motel: A hotel or motel, which as a regular and substantial course of conduct provides to its patrons, through the provision of rooms equipped with closed-circuit television or other medium, material which is distinguished or characterized by its emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts and/or which rents, leases, or lets any room for less than a 12-hour period or rents, leases or lets any single room more than once in a 24-hour period and/or which advertises any of the above. See "Sexually oriented business" for definition of regular and substantial course of conduct.

Adult model studio: Any premises where there is conducted the business or transaction of furnishing, providing, or procuring figure models who pose in any manner which is not prohibited under title 4, division 14, chapter 5 of the Irvine City Code but is still characterized by its emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical parts for the purpose of being observed or viewed by any person or being sketched, painted, drawn, sculptured, photographed, filmed, videotaped, or otherwise similarly depicted before persons who pay a fee, or any other thing of value, as a consideration, compensation, or gratuity for the right or opportunity to so observe a figure model or as a condition of remaining on the premises. "Adult model studio" shall not include any studio or classroom which is operated by any public agency, or any public or private educational institution authorized by law to issue and confer a diploma or degree or any live art class.

Adult motion picture arcade: Any business establishment or concern containing coin- or slug-operated or manually or electronically controlled still or motion picture machines, projectors or other image-producing devices that are maintained to display images to individuals in individual viewing areas or to groups of between ten and 30 persons in other viewing areas when those images are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts.

Adult theater: A business establishment or concern which presents motion pictures, videocassettes, slide photographs, or other pictures which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical parts or presents any type of live entertainment which is not prohibited under title 4, division 14, chapter 5 of the Irvine City Code, but is nonetheless characterized by its emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical parts.

→ *Advertising device:* Balloons of any size or variety; flag; statuary; pennant; propeller; oscillating, rotating, pulsating light; topiary landscaping; or similar contrivance; including but not limited to signs held, waved or rotated by individuals used to attract attention for the purpose of promoting the sale of products, except those flags or banners which are covered by the definition of "Architectural pennant/flag."

Advisory sign (convenience or directional sign): See "Sign, advisory (convenience or directional)."

Affordable housing: Residential units meeting the criteria set forth in the housing element of the City of Irvine general plan.

Aggrieved person: Any person who, in person or through a representative, appeared at a public hearing of the City of Irvine in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the City of Irvine of the nature of his or her concerns or who for good cause was unable to do either.

Agricultural use: The production, keeping or maintenance of plants and/or animals useful to man, including but not limited to food and fiber crops, livestock forage and grazing, orchards, nursery and ornamental plants. This includes wholesale nurseries and produce stands. Greenhouses may be an accessory use. Agriculture does not include the processing of any products. (See also "Nursery, retail," "Dairy, commercial," "Greenhouse," "Packing plant for agricultural products," "Seasonal agricultural sales use" and "Annual agricultural sales use.")

Alcohol beverage control license: License issued by the California Department of Alcohol

a flag nor the flagpole from which it is hung shall exceed the height limit for the zone in which it is located.

F. Municipal service signs specifically sanctioned by the City Council that typically serve a directional or informational purpose. Examples include decorative holiday banners on street lights and signs associated with City Council-sanctioned civic events (Fourth of July Parade). (Ord. 176 § 1 (Exh. A (part)), 2007)

9.164.080 Prohibited signs.

All signs that are not expressly permitted under this chapter or exempt from regulation hereunder in accordance with the previous section shall be prohibited in the City. Such signs include:

- A. Signs on public property except those serving a public purpose and approved by a government agency;
- B. Signs in public street rights-of-way* except those needed for traffic safety regulation, signs providing public information, and except as permitted according to the provisions under signs permitted in all districts as approved by Planning Commission;
- C. Any off-site or outdoor advertising sign or structures, such as billboards or snipe signs, placed for the purpose of advertising a business not on the property upon which the sign is placed. This prohibition shall not apply to noncommercial signs, as defined in Section 9.164.030;
- D. Banners, flags, kites, pennants, balloons, or other such advertising devices or displays, except as permitted according to the provisions under signs permitted in residential districts and special signs permitted in commercial and industrial districts;
- E. Signs which revolve, rotate, move, flash, reflect, blink, or appear to do any of the foregoing, including searchlights, and animated signs shall be prohibited unless required by law or utilized by a proper government agency, with the exception of approved time and temperature displays;
- F. Electronic message board signs, except those which display time and temperature;
- G. Signs which constitute a nuisance or hazard due to their intensity of light;
- H. Animals or human beings, live or simulated, designed or used so as to attract attention to the premises;
- I. Loudspeakers or signs which emit sound, odor, or visible matter, except as provided for within this Sign Ordinance;
- J. Roof signs;
- K. Abandoned signs;
- L. Vehicle signs, including signs attached by any means to automobiles, trucks, trailers, or other vehicles on private or public property for the purpose of advertising, identifying, or providing direction to a use or activity not related to the lawful use of the vehicle for rendering service or delivering merchandise, that remain unmoved for four (4) or more hours, as per this Code;
- M. Neon signs/bands in residential areas; and neon bands exceeding two hundred (200) percent of the lineal frontage of a building;
- N. Portable signs;
- O. Pole signs;
- P. Signs that create safety hazards;
- Q. Signs advertising or displaying any unlawful act, business or purpose. (Ord. 176 § 1 (Exh. A (part)), 2007)

* That is, on fire hydrants, traffic signs, or traffic signals; or so as to obscure fire hydrants, traffic signs, or traffic signals, to block motorists' line of sight, or to otherwise inhibit or interfere with vehicular or pedestrian traffic.

9.164.090 Permitted signs by zoning district.

This section specifies the criteria for:

- A. Temporary signs permitted in commercial and industrial districts;
- B. Signs permitted in residential districts;
- C. Signs permitted in commercial districts;
- D. Signs permitted in office districts;
- E. Signs permitted in industrial districts; and
- F. Signs permitted in all districts.

Signs shall be permitted in the City in accordance with the guidelines contained in Tables

"Decorative flag" means a temporary sign made of fabric or any non rigid material which is individually mounted a flag pole device and is not a corporate flag or official flag.

"Double-faced sign" is a sign with two (2) faces that are placed back-to-back with a distance separation of no greater than eighteen (18) inches and in which both faces cannot be viewed from any point at the same time.

"Electrical sign" means any sign containing electrical wiring which is attached or intended to be attached to an electrical energy source for the purposes of illuminating its surface.

"Erect" means to build, construct, attach, place, suspend, affix or Install.

"Exempt sign" means signs exempt from the permit requirements of this Chapter.

"Facade" means the exterior walls of a building exposed to public view.

"Festoons" means a nonmetallic string of ribbons, nonmetallic tinsel, small flags, pinwheels, bunting, pennants and other like items.

"Flag" means cloth or other lightweight material of distinctive size, color and design, used as a symbol, standard, signal, emblem, or a device used to attract attention.

"Flashing sign" means any directly or indirectly Illuminated Sign that exhibits changing natural or artificial light or color effects by any means whatsoever.

"Freestanding sign" means any non-moveable sign not affixed to a building, including but not limited to pole signs, ground signs, and construction signs; see section 9412.

"Freeway sign" is a sign whose purpose is to identify a specific service oriented business (those offering eating facilities, lodging accommodations or an automobile service business) which is located adjacent to the freeway right-of-way, or separated from the right-of-way by a frontage road.

"Garage sale sign" means a temporary sign announcing the limited sale, from a private residence, of goods, furniture, clothing or other similar articles.

"Height" means the vertical distance measured from the highest point of the sign including any architectural, ornamental or structural element of the sign to the finished grade adjacent to the sign structure. When calculating sign area, height is the vertical distance from the highest point to the lowest point of the sign.



"Human sign" means a sign that is held or worn by a person.

"Identification sign" means a sign whose copy is limited to the name and address of a building, institution, or person and/or to the activity or occupation being identified and shall not include a listing of pricing information or of specific brand names unless the pricing or brand name is incorporated into the name of the business or is a trademark or company symbol identifying the business or activity. Identification of product, trade and service information is permitted, and is considered supplemental provided it is subordinate to business identification. Supplemental signs shall be considered subordinate if no more than twenty-five (25) percent of the total allowable sign area is used for this purpose.

"Illegal sign" means a sign not permitted or exempted by this Chapter at the time of its construction or erection.

"Illuminated sign" is a sign which has characters, letters, figures, designs, logograms, pictures or outlines illuminated by a source of energy directly or indirectly in order to make the message visible. The definition shall include internally and externally lighted signs and reflectorized, glowing and radiating signs.

"Incidental sign" means a sign, emblem, or decal informing the public of services

following additional criteria:

- (1) No more than three (3) protected speech signs shall be permitted in the public parkway area abutting any one (1) parcel of property.
- (2) Protected speech signs shall be limited to a maximum of six (6) square feet in size and four (4) feet in height above grade.
- (3) Protected speech signs shall not be installed or maintained in any manner so as to impede vehicles or permitted parking adjacent to curb, pedestrian walkways, hinder disabled access, or constitute a hazard to or endanger persons using the sidewalks.
- (4) Protected speech signs shall not be located in any visual clearance area.
- (5) Any person, party or group posting such protected speech signs shall be liable to the City of Tustin, private property owners and the general public for any injury to persons or property resulting from the placement and maintenance of the sign.
- (6) A protected speech sign shall be posted for no more than fifty (50) days. The responsible party shall indicate on the back of the sign the date that the sign was posted.
- (7) Any protected speech sign posted in the public parkway area that is directly adjacent to a single-family residence shall require the approval of the owner of the single-family residence.
- (8) If the Community Development Director finds that any protected speech sign has been posted or is being maintained in violation of the provisions of this section, the responsible party shall be given notice to remove said sign(s) within twenty-four (24) hours from the time of said notice. The notice shall include a brief statement of the reasons for requiring removal. If the person so notified fails to correct the violation or remove the sign(s), the Community Development Director may cause said sign(s) to be removed without further notice. If the responsible party for the sign cannot in good faith be located within a reasonable time, the sign shall be deemed abandoned.
- (9) Any protected speech sign that remains posted for more than fifty (50) days shall also be deemed abandoned. The Community Development Director may cause such abandoned signs and any signs, which constitute an immediate peril to persons or property to be removed summarily and without prior notice. The City shall assess a charge against any person, candidate, entity, party or group posting or placing signs in violation of this section for the cost incurred in the removal.
- (10) Protected speech signs in the public parkway area in violation of this section shall be subject to removal by City in accordance with section 9405e1(b) of this Code.
- (11) Any person who intentionally defaces, obliterates, tears down, or destroys a protected speech sign installed in accordance with the provisions of this Code shall be subject to being charged with an infraction pursuant to section 1121 of this Code.



15. Human signs shall be permitted on private property and in public parkway areas and sidewalks, subject to the following provisions:

- (a) Human signs shall be prohibited within two hundred (200) feet of any street

intersection.

(b) Human signs shall be limited to a maximum of three (3) square feet in size.

(c) Human signs shall not block the visibility of any traffic control device or traffic signal for motorists.

(d) Human signs on public sidewalks shall yield to the passage of pedestrians.

(e) Human signs shall not spin, swirl, swing or gyrate.

f. *Exceptions.* When an application for a sign code exception has been submitted to the Community Development Department, the Community Development Director shall have authority to grant or conditionally grant an exception to allow no more than a ten (10) percent increase in height or sign area of an allowable sign subject to findings contained herein. The Planning Commission shall have authority to grant or conditionally grant all other exceptions to the various sign regulations contained in this Chapter subject to the following:

1. Sign size and placement restrictions of this chapter shall be as closely followed as practicable;

2. The intent and purpose of the sign regulations of the land use zone in which the sign is to be located shall be followed as closely as practicable;

3. There are special circumstances unique to the property to justify the exception;

4. Granting of the exception will not have a negative impact on surrounding properties;

5. The Sign application promotes the public health, safety, welfare and aesthetics of the community and that the granting of the exception meets the findings and intent of this Chapter.

g. *Standard sign plans.* All applications for sign permits shall be accompanied by three (3) sets of dimensioned plans and shall include the following information:

1. The name, address, and telephone number both of the owner or persons entitled to possession of the sign and of the sign contractor or erector.

2. The location by street address of the proposed sign.

3. An elevation of the sign showing the dimensions of the sign, the dimensions of the sign's supporting members, the maximum and minimum height of the sign, sign copy, proposed lettering and background color and lettering style.

4. A dimensioned elevation of that portion of the building exterior where the proposed location of the sign will be placed in relation to the face of the building.

5. A dimensioned site plan showing the proposed location of the sign in relation to the boundaries of the lot upon which it is to be situated and any pole or monument signs within fifty (50) feet of the site boundaries can be prepared on an eight and one-half (8 1/2) inch x eleven (11) inch size paper.

6. Where the sign is to be attached to an existing building, a current color photograph of the face of the building to which the sign is to be attached and color photograph of all existing Signs on the building and sign structures labeled to show which signs will be removed and which will remain.

7. A sign plan shall indicate the scope and structural detail of the work to be done, including details of all electrical and mechanical connections, guy lines, supports and footing and materials to be used.

8. Means of lighting/illumination along with an electrical permit for all electrical signs. All